

United States District Court

EASTERN DISTRICT OF WISCONSIN

MODERN FENCE TECHNOLOGIES, INC.,

Plaintiff,

JUDGMENT IN A CIVIL CASE

v.

Case No. 08-C-0543

QUALIPAC HOME IMPROVEMENT CORP.,

Defendant.

- ☒ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☐ **Decision by Court.** This action came before the Court for consideration.

IT IS HEREBY ORDERED AND ADJUDGED that plaintiff Modern Fence Technologies, Inc. ("Modern Fence") take nothing from defendant Qualipac Home Improvement Corp. ("Qualipac") on its claims against Qualipac for infringement of United States Trademark Registration Nos. 2,917,000 and 3,337,668;

IT IS FURTHER ORDERED AND ADJUDGED that United States Trademark Registration No. 2,917,000, which had been previously issued to Modern Fence by the United States Patent and Trademark Office on January 11, 2005, be and hereby is **CANCELLED**, pursuant to 15 U.S.C. § 1119, due to lack of acquired distinctiveness and due to genericness;

IT IS FURTHER ORDERED AND ADJUDGED that United States Trademark Registration No. 3,337,668, which had been previously issued to Modern Fence by the United States Patent and Trademark Office on November 20, 2007, be and hereby is **CANCELLED**, pursuant to 15 U.S.C. § 1119, due to lack of acquired distinctiveness, due to genericness, and due to the intentional submission of false information to the United States Patent and Trademark Office in obtaining such registration;

IT IS FURTHER ORDERED AND ADJUDGED that Qualipac's prayer that United States Trademark Registration Nos. 3,342,402 (issued on November 27, 2007) and 3,337,669 (issued on November 20, 2007) be cancelled pursuant to 15 U.S.C. § 1119, be and hereby is **DENIED**;

IT IS FURTHER ORDERED that Qualipac take nothing from Modern Fence on Qualipac's counterclaim against Modern Fence for attempted monopolization;

IT IS FURTHER ORDERED that this action be and hereby is **DISMISSED**.

Approved: s/ William E. Callahan, Jr.
WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge

Dated this 11th day of May 2011, at Milwaukee, Wisconsin.

JON W. SANFILIPPO

Clerk

s/K. Hubacz

Deputy Clerk